



General Assembly

February Session, 2004

Amendment

LCO No. 3468

HB0535503468HR0

Offered by:

REP. BOUCHER, 143rd Dist.

To: Subst. House Bill No. 5355

File No. 292

Cal. No. 210

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 1 to
4 9, inclusive, of this act, unless the context otherwise requires:

5 (1) "Debilitating medical condition" means (A) cancer, glaucoma,
6 positive status for human immunodeficiency virus or acquired
7 immune deficiency syndrome, or the treatment of any such conditions,
8 including, but not limited to, chemotherapy, (B) a chronic or
9 debilitating disease or medical condition, or the treatment thereof, that
10 produces one or more of the following: (i) Cachexia or wasting
11 syndrome; (ii) severe pain; (iii) severe nausea; (iv) seizures; or (v)
12 severe and persistent muscle spasms, or (C) any other medical
13 condition approved by the Department of Public Health, pursuant to
14 regulations that the Commissioner of Public Health may adopt, in
15 accordance with chapter 54 of the general statutes, in response to a

16 request from a physician or potentially qualifying patient;

17 (2) "Marijuana" has the same meaning as provided in section 21a-
18 240 of the general statutes, as amended;

19 (3) "Medical use" means the acquisition, possession, use or
20 transportation of marijuana or paraphernalia relating to marijuana by
21 a qualifying patient to alleviate the symptoms or effects of such
22 qualifying patient's symptoms, but does not include any use of crude
23 marijuana by such qualifying patient. For the purposes of this
24 subdivision: (A) "Use of crude marijuana" means the acquisition,
25 possession, cultivation, use, distribution, consumption or
26 transportation of crude marijuana or paraphernalia relating to crude
27 marijuana; (B) "crude marijuana" means the leaves, stems and
28 flowering tops of the cannabis plant, or any derivative thereof, that
29 have not been tested and approved by the federal Food and Drug
30 Administration for medical purposes; and (C) "medical purposes"
31 means the diagnosis, prevention, treatment or mitigation of any
32 disease or impairment of the health of human beings;

33 (4) "Physician" means a person who is licensed under the provisions
34 of chapter 370 of the general statutes and authorized by subsection (a)
35 of section 21a-246 of the general statutes, as amended by this act, to
36 possess and supply marijuana for medical use, but does not include a
37 physician assistant, as defined in section 20-12a of the general statutes;

38 (5) "Qualifying patient" means a person who is eighteen years of age
39 or older and has been diagnosed by a physician as having a
40 debilitating medical condition; and

41 (6) "Written certification" means a statement signed by the
42 qualifying patient's physician stating that, in the physician's
43 professional opinion, the qualifying patient has a debilitating medical
44 condition and the potential benefits of the medical use of marijuana
45 would likely outweigh the health risks of such use to the qualifying
46 patient.

47 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient shall
48 not be subject to arrest or prosecution, penalized in any manner,
49 including, but not limited to, being subject to any civil penalty, or
50 denied any right or privilege, including, but not limited to, being
51 subject to any disciplinary action by a professional licensing board, for
52 the medical use of marijuana if:

53 (1) The qualifying patient has been diagnosed by a physician as
54 having a debilitating medical condition;

55 (2) The qualifying patient's physician has issued a written
56 certification to the qualifying patient for the medical use of marijuana
57 after the physician has prescribed, or determined it is not in the best
58 interest of the patient to prescribe, prescription drugs to address the
59 symptoms for which the certification is being issued; and

60 (3) The amount of marijuana possessed by the qualifying patient for
61 medical use does not exceed an amount specified in such written
62 certification or otherwise prescribed by a physician.

63 (b) Subsection (a) of this section does not apply to:

64 (1) Any medical use of marijuana that endangers the health or well-
65 being of another person; and

66 (2) The medical use of marijuana (A) in a motor bus or a school bus,
67 as defined respectively in section 14-1 of the general statutes, as
68 amended, or in any moving vehicle, (B) in the workplace, (C) on any
69 school grounds, (D) at any public park, public beach, public recreation
70 center or youth center or any other place open to the public, or (E) in
71 the presence of a person under the age of eighteen. For the purposes of
72 this subdivision, "presence" means within the direct line of sight of the
73 medical use of marijuana or exposure to second-hand marijuana
74 smoke, or both.

75 (c) Any written certification for the medical use of marijuana issued
76 by a physician under this section shall be valid for a period not to

77 exceed one year from the date such written certification is signed by
78 the physician.

79 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Each qualifying patient
80 who is issued a written certification for the medical use of marijuana
81 shall register with the Department of Agriculture and Consumer
82 Protection. Such registration shall be effective until the expiration of
83 the written certification issued by the physician. The qualifying patient
84 shall provide sufficient identifying information, as determined by the
85 department, to establish the personal identity of the qualifying patient.
86 The qualifying patient shall report any change in such information to
87 the department not later than five business days after such change. The
88 department shall issue a registration certificate to the qualifying
89 patient and may charge a reasonable fee, not to exceed twenty-five
90 dollars, for a registration under this subsection.

91 (b) Upon the request of a law enforcement agency, the Department
92 of Agriculture and Consumer Protection shall verify whether a
93 qualifying patient has registered with the department in accordance
94 with subsection (a) of this section and may provide reasonable access
95 to registry information obtained under this section for law
96 enforcement purposes. Except as provided in this subsection,
97 information obtained under this section shall be confidential and shall
98 not be subject to disclosure under the Freedom of Information Act, as
99 defined in section 1-200 of the general statutes.

100 Sec. 4. (NEW) (*Effective October 1, 2004*) The Commissioner of
101 Agriculture and Consumer Protection may adopt regulations, in
102 accordance with chapter 54 of the general statutes, to establish (1) a
103 required form for written certifications for the medical use of
104 marijuana issued by physicians under section 2 of this act, and (2)
105 requirements for registrations under section 3 of this act.

106 Sec. 5. (NEW) (*Effective October 1, 2004*) Nothing in sections 1 to 9,
107 inclusive, of this act shall be construed to require health insurance
108 coverage for the medical use of marijuana.

109 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient may
110 assert the medical use of marijuana as an affirmative defense to any
111 prosecution involving marijuana, or paraphernalia relating to
112 marijuana, under chapter 420b of the general statutes, provided such
113 qualifying patient has strictly complied with the requirements of
114 sections 1 to 9, inclusive, of this act.

115 (b) No person shall be subject to arrest or prosecution solely for
116 being in the presence or vicinity of the medical use of marijuana as
117 permitted under sections 1 to 9, inclusive, of this act.

118 Sec. 7. (NEW) (*Effective October 1, 2004*) A physician shall not be
119 subject to arrest or prosecution, penalized in any manner, including,
120 but not limited to, being subject to any civil penalty, or denied any
121 right or privilege, including, but not limited to, being subject to any
122 disciplinary action by the Connecticut Medical Examining Board or
123 other professional licensing board, for providing a written certification
124 for the medical use of marijuana if:

125 (1) The physician has diagnosed the qualifying patient as having a
126 debilitating medical condition;

127 (2) The physician has explained the potential risks and benefits of
128 the medical use of marijuana to the qualifying patient and, if the
129 qualifying patient lacks legal capacity, to a parent, guardian or person
130 having legal custody of the qualifying patient; and

131 (3) The written certification issued by the physician is based upon
132 the physician's professional opinion after having completed a full
133 assessment of the qualifying patient's medical history and current
134 medical condition made in the course of a bona fide physician-patient
135 relationship.

136 Sec. 8. (NEW) (*Effective October 1, 2004*) Any marijuana,
137 paraphernalia relating to marijuana, or other property seized by law
138 enforcement officials from a qualifying patient in connection with a
139 claimed medical use of marijuana under sections 1 to 9, inclusive, of

140 this act shall be returned to the qualifying patient immediately upon
141 the determination by a court that the qualifying patient is entitled to
142 the medical use of marijuana under sections 1 to 9, inclusive, of this
143 act, as evidenced by a decision not to prosecute, a dismissal of charges
144 or an acquittal. This section does not apply to any qualifying patient
145 who fails to comply with the requirements for the medical use of
146 marijuana under sections 1 to 9, inclusive, of this act.

147 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) Any person who makes a
148 fraudulent representation to a law enforcement official of any fact or
149 circumstance relating to the medical use of marijuana in order to avoid
150 arrest or prosecution under chapter 420b of the general statutes shall
151 be guilty of a class C misdemeanor.

152 (b) Any person who makes a fraudulent representation to a law
153 enforcement official of any fact or circumstance relating to the issuance
154 of a written certification for the medical use of marijuana by a
155 physician to which section 7 of this act does not apply shall be guilty of
156 a class A misdemeanor.

157 Sec. 10. Subsection (a) of section 21a-246 of the general statutes, as
158 amended by section 146 of public act 03-6 of the June 30 special
159 session, is repealed and the following is substituted in lieu thereof
160 (*Effective October 1, 2004*):

161 (a) No person within this state shall manufacture, wholesale,
162 repackage, supply, compound, mix, cultivate or grow, or by other
163 process produce or prepare, controlled substances without first
164 obtaining a license to do so from the Commissioner of Agriculture and
165 Consumer Protection and no person within this state shall operate a
166 laboratory for the purpose of research or analysis using controlled
167 substances without first obtaining a license to do so from the
168 Commissioner of Agriculture and Consumer Protection, except that
169 such activities by pharmacists or pharmacies in the filling and
170 dispensing of prescriptions, or activities incident thereto, or the
171 dispensing or administering of controlled substances by dentists,

172 podiatrists, physicians [,] or veterinarians, or other persons acting
173 under their supervision, in the treatment of patients shall not be
174 subject to the provisions of this section, and provided laboratories for
175 instruction in dentistry, medicine, nursing, pharmacy, pharmacology
176 and pharmacognosy in institutions duly licensed for such purposes in
177 this state shall not be subject to the provisions of this section except
178 with respect to narcotic drugs and schedule I and II controlled
179 substances. Upon application of any physician licensed pursuant to
180 chapter 370, the Commissioner of Agriculture and Consumer
181 Protection shall without unnecessary delay, license such physician to
182 possess and supply marijuana for [the treatment of glaucoma or the
183 side effects of chemotherapy] medical use pursuant to sections 1 to 9,
184 inclusive, of this act. No person [without] outside this state shall sell or
185 supply controlled substances within [the] this state without first
186 obtaining a license to do so from the Commissioner of Agriculture and
187 Consumer Protection, provided no such license shall be required of a
188 manufacturer whose principal place of business is located outside [the]
189 this state and who is registered with the federal Drug Enforcement
190 [Agency] Administration or other federal agency, and who files a copy
191 of such registration with the appropriate licensing authority under this
192 chapter.

193 Sec. 11. Section 21a-253 of the general statutes, as amended by
194 section 146 of public act 03-6 of the June 30 special session, is repealed
195 and the following is substituted in lieu thereof (*Effective October 1,*
196 *2004*):

197 Any [person] qualifying patient, as defined in section 1 of this act,
198 may possess or have under [his] such qualifying patient's control a
199 quantity of marijuana less than or equal to that quantity supplied [to
200 him] pursuant to a prescription made in accordance with the
201 provisions of section 21a-249, as amended, by a physician licensed
202 under the provisions of chapter 370 and further authorized by
203 subsection (a) of section 21a-246, as amended by this act, by the
204 Commissioner of Agriculture and Consumer Protection to possess and
205 supply marijuana for [the treatment of glaucoma or the side effects of

206 chemotherapy] medical use pursuant to sections 1 to 9, inclusive, of
207 this act. The provisions of this section do not apply to the possession or
208 control of marijuana of a kind or in a quantity not permitted for
209 medical use pursuant to sections 1 to 9, inclusive, of this act."

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>